



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

E6
02/22/96

Feb. 22, 1996

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



City of Albion - Albion, Michigan
c/o George B. Davis
Varnum, Riddering, Schmidt & Howlett
P.O. Box 352
Grand Rapids, MI 49501-0352

Re: Request for Information Pursuant to Section 104 of
CERCLA for the Albion-Sheridan Township Landfill Site,
in Albion Michigan.

Dear City of Albion:

This Agency is conducting an investigation of the release or threatened release of hazardous substances at the Albion-Sheridan Township Landfill Site in Albion, Michigan, during the time period of 1966 to 1996. The Site is located 1 mile east of Albion, Michigan, between Michigan Avenue (also known as U.S. Highway 99 or old U.S. Highway 12), and East Erie Road. The U.S. EPA believes that you may have information that is relevant to the investigation of contamination at the Site.

The U.S. EPA asks that you provide information and documents relating to the contamination of the Site. Please respond completely and truthfully to this Information Request and its questions in Attachment 1 within thirty (30) days of your receipt of this letter. Instructions for completion of this response are in Attachment 2, definitions of terms used in this Information Request are in Attachment 3.

The Agency requests this information pursuant to Section 104(e) (2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C § 9604 (e) (2). The federal **Superfund** law (commonly referred to as **CERCLA** or **Superfund**), 42 U.S.C. §§ 9601-9675, grants the Agency the authority to: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by a site, and (3) clean up those sites, and (4) determine the ability of potentially responsible parties to pay the costs of the clean-up. CERCLA grants the Agency authority to gather information relevant to site(s) and to enforce compliance with the statute, including seeking penalties for failure to comply.

You may consider some information that we request as

confidential. If you wish to assert a privilege of business confidentiality, you must both respond to the question and advise the U.S. EPA that you wish it to treat the response as confidential business information. Directions for asserting a claim of business confidentiality are in Attachment 4.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501 et seq.

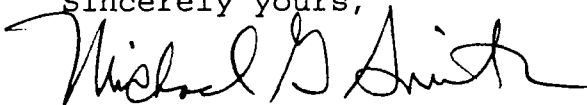
Your response to this Information Request should be mailed to:

U.S Environmental Protection Agency
C/O Kurt N. Lindland
Assistant Regional Counsel
77 W. Jackson CS-29A
Chicago, IL. 60604

If you have questions about a legal matter please call our attorney Kurt Lindland at (312) 886-6831. If you have technical questions about this Site, please call Leah Evison at (312) 886-4696.

We appreciate your effort to respond fully and promptly to this information request.

Sincerely yours,



Michael G. Smith, Chief
Multi Media Branch I
Office of Regional Counsel

Attachment: 1. Questions
2. Instructions
3. Definitions
4. Confidential Business Information
5. Legal Authority

cc: Kurt Lindland, ORC
Leah Evison, RPM

INFORMATION REQUESTS

Albion-Sheridan Township Landfill Superfund Site

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Requests or who may be able to provide additional responsive documents, identify such persons.
4. Identify and provide copies of all documents relating to the City of Albion's relationship, agreement or contact with Mr. Gordon Stevick, and/or the operation of, and/or the City of Albion's connection with the Site, including without limitation, each and every document generated by any City Council member or person from January 1, 1966 to January 1, 1996.
5. Identify and provide each and every document generated or prepared during, in response to, or otherwise relating to each and every executive session of the City Council meetings between January 1, 1966 and January 1, 1996 which relate to the City of Albion's relationship, agreement(s), or contact(s) with Mr. Gordon Stevick.
6. Identify and provide each and every document generated or prepared during, in response to, or otherwise relating to each and every executive session of the City Council meetings between January 1, 1966 and January 1, 1996 which relate to the operation of the Site.
7. Identify and provide each and every document generated or prepared during, in response to, or otherwise relating to, each and every executive session of the City Council meetings between January 1, 1966 and January 1, 1996 which relate to the City of Albion's connection with the Site.
8. Identify the procedure by which City Council members or persons transfer documents upon their departure from the City Council.
9. Identify the record retention policy of the City of Albion or the City Council for documents generated by City Council members or persons between 1966 and 1996.

10. Identify the names and last known addresses of each and every City Council member or person from January 1, 1966 to January 1, 1996.

ATTACHMENT 2

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
5. For any document submitted in response to a question, indicate the number of the question to which it responds.
6. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
7. Your response should be accompanied by a notarized affidavit from a responsible City of Albion official or representative which states that a diligent record search has been completed, and that there has been a diligent interviewing process with all present and former employees, and members of the City Council, who may have knowledge of the City of Albion's relationship to the Site, use of hazardous substances, any releases or spills, and any storage, treatment, disposal or handling practices. To the extent that any information you provide is based on your personal knowledge, or the personal knowledge of your employees, agents, City Council members, or their representatives, this information shall be in the form of a notarized affidavit. In lieu of a notarized affidavit, you may submit the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my

inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines, and imprisonment for knowing violations.

8. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
9. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim, as set forth in Attachment 4.

ATTACHMENT 3

DEFINITIONS

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The term **person** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. **The Site** referenced in these documents shall mean the **Albion-Sheridan Township Landfill**, encompassing approximately 18 acres, located at 29975 East Erie Road, in Sheridan Township, Calhoun County, Michigan.
4. The term **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term, **pollutant** or **contaminant**, shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
7. The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
8. The term **identify** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.

9. The term **identify** means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
10. The term **City Council** shall mean the City Council, comprised of duly elected or appointed council members or persons, for the City of Albion, Albion, Calhoun County, Michigan.
11. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Part 260-280, in which case the statutory or regulatory definitions shall apply.

ATTACHMENT 4

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You can not withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 et seq require that the U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985).] If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e) (7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e) (7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as confidential, you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph and sentence. You must make a **separate** assertion of confidentiality for **each response** and **each document** that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope confidential and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g. until a specific date or until the occurrence of a specific event;

2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination.
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information.
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future.
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e) **the burden of substantiating confidentiality rests with you.** The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as confidential, your comments will be available to the public without further notice to you.

ATTACHMENT 5

DESCRIPTION OF LEGAL AUTHORITY

The federal **Superfund** law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (commonly referred to as **CERCLA** or **Superfund**) gives the U.S. EPA the authority to, among other things: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by each site, and (3) clean up those sites in the order of the relative threats posed by each.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility;
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility;
- (C) The ability to pay the costs of the clean-up.